

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

TYRONE LEE FUTRELL, SR.

PLAINTIFF

v.

CASE NO. 3:13CV00144 BSM

OSCEOLA POLICE DEPARTMENT

DEFENDANT

ORDER

Defendant Osceola Police Department's ("Osceola") motion to dismiss [Doc. No. 14] is granted, and this case is dismissed with prejudice.

Federal Rule of Civil Procedure 12(b)(6) permits dismissal when the plaintiff fails to state a claim upon which relief can be granted. To meet the 12(b)(6) standard, a complaint must sufficiently allege facts that will entitle the plaintiff to the relief sought. *See Ashcroft v. Iqbal*, 556 U.S. 662, 663 (2009). Although detailed factual allegations are not required, threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, are insufficient. *Id.*

Plaintiff Tyrone Lee Futrell filed this Title VII lawsuit, claiming that Osceola did not hire him because he is black and is a man. The crux of his complaint appears to be that he "never received a phone call or a letter from [Osceola] stating who they hired for the position." Pl.'s Compl. at 3. Osceola moves to dismiss, contending that Futrell did not exhaust his administrative remedies with the EEOC before filing suit, and that he fails to state a claim upon which relief may be granted. Osceola's motion is granted. Futrell filed this suit on May 31, 2013, but did not file charges with the EEOC until July 16, 2013, and

did not obtain a right-to-sue letter until September 24, 2013. Moreover, his EEOC complaint alleges discrimination due to his sex and age, but this suit alleges discrimination based upon sex and race. It is clear that Futrell did not exhaust his administrative remedies prior to filing suit.

Futrell also fails to state a claim upon which relief may be granted. While Futrell claims he was discriminated against, the only facts he pleads in support of this is that Osceola did not call him to tell him who received the position. Additionally, Futrell appears to be a frivolous filer. On the same day he filed this complaint, Futrell filed six other actions in this district, most of which claim discrimination based on failure to receive a phone call from the hiring entity. Three of those cases have already been dismissed. *See Futrell v. Imperial Security*, Case No. 3:13CV00140 SWW (dismissed for failure to state a claim); *Futrell v. Gosnell Police Dep't*, 3:13CV00143 DPM (dismissed for failure to state a claim); *Futrell v. Craighead Cnty. Sheriff's Dep't*, 3:13CV00145 DPM (dismissed for failure to state claim); *Futrell v. Mississippi Cnty. Sheriff's Dep't*, 3:13CV00139 BSM; *Futrell v. Arkansas Northeastern College*, 3:13CV00141 KGB; *Futrell v. Bono Police Dep't*, 3:13CV00142 JLH.

Accordingly, Osceola's motion to dismiss [Doc. No. 14] is granted, and this case is dismissed with prejudice.

IT IS SO ORDERED this 25th day of February 2014.


UNITED STATES DISTRICT JUDGE